



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Eastern States Office  
20 M Street SE, Suite 950  
Washington D.C. 20003



## **DECISION RECORD FOR BLM EASTERN STATES MARCH 2017 COMPETITIVE OIL AND GAS LEASE SALE Environmental Assessment DOI-BLM-ES-0030-2016-0002-EA**

### **INTRODUCTION**

The Bureau of Land Management (BLM) proposes to lease federal mineral estate for potential future oil and gas development within the proclamation boundary of the Wayne National Forest (WNF), Athens Ranger District, and Marietta Unit (located in the counties of Monroe, Noble, and Washington in Ohio). The BLM will offer 1,147.10 acres (20 parcels) in Ohio as part of the March 2017 Competitive Oil and Gas Lease Sale. These parcels comprise Expressions of Interest (EOI) 1635, EOI 1638, and EOI 1639.

In December 2016, the BLM completed an Environmental Assessment (EA) (DOI-BLM-ES-0030-2016-0002-EA) to analyze the potential effects of leasing all federal mineral estate underlying National Forest System lands within the Marietta Unit, totaling approximately 40,000 acres. The BLM also completed a Finding of No Significant Impact (FONSI) and Decision Record for that EA. Those documents provide the required documentation under the National Environmental Policy Act (NEPA), to facilitate current and future oil and gas lease sales within the Marietta Unit. Specific parcels are reviewed by the BLM and U.S. Forest Service before being proposed for a lease sale. As parcels are reviewed, the BLM also reviews the EA to ensure the analysis is still up-to-date.

Interested parties, such as private individuals or companies, may nominate parcels for competitive bidding and leasing (EOIs) by the BLM. Between April 2012 and November 2016, the BLM has received at least 50 EOIs on the Marietta Unit of the WNF. A federal oil and gas lease is a legal contract that grants exclusive rights to the lessee to develop federally-owned oil and gas resources, but does not authorize surface-disturbing activities or obligate the lessee to drill a well on a parcel in the future. If the parcels are leased and the lessee identifies a detailed plan for oil and gas development on the parcels in the future, the BLM and U.S. Forest Service would conduct site-specific environmental analysis and any required consultations, prior to authorizing any ground disturbing activities. This site-specific analysis and additional consultations would occur when the lessee submits an Application for Permit to Drill (APD).

The Proposed Action to offer the 20 parcels for lease has been analyzed in the above-mentioned EA and is part of an action previously analyzed in the 2006 Final Revised Land and Resource Management Plan, Wayne National Forest (2006 Forest Plan). Goal 10.1 in the 2006 Forest Plan states, "Provide a supply of mineral commodities for current and future generations, while protecting the long-term health and biological diversity of ecosystems. Facilitate the orderly

exploration, development, and production of mineral and energy resources on land open to these activities” (2006 Forest Plan, p. 2-41). The BLM was a cooperating agency in development of the 2006 Forest Plan and its related Final Environmental Impact Statement (EIS). The Forest Service signed its Record of Decision on December 14, 2005.

The Proposed Action was also assessed as part of a related review effort prepared by the U.S. Forest Service in coordination with the BLM, resulting in a Supplemental Information Report (SIR) on “Horizontal Drilling Using High Volume Hydraulic Fracturing” (August 2012). The December 2016 leasing EA (DOI-BLM-ES-0030-2016-0002-EA) incorporates by reference the relevant information from the 2006 Forest Plan, Final Environmental Impact Statement and the 2012 SIR, in accordance with 40 CFR 1502.21.

## **DECISION**

As a result of the analysis presented in the EA (DOI-BLM-ES-0030-2016-0002-EA), it is my decision to authorize offering for lease the 20 parcels (1,147.10 acres) for the March 2017 Competitive Oil and Gas Lease Sale. The Proposed Action, coupled with lease stipulations, best management practices, and lease notices detailed in the EA and identified in the March 2017 Competitive Oil and Gas Lease Sale Notice and Errata, have led to my decision that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of public lands and resources would not result from implementation of the Proposed Action. The leasing EA analyzed a no action alternative, in which leases would not be issued; however, this alternative was not selected for the March 2017 Competitive Oil and Gas Lease Sale because it does not meet the purpose of and need for the Proposed Action.

The BLM will issue competitive leases for parcels sold at the sale, and non-competitive leases may be issued for applications filed for two years after the sale for the unsold parcels.

## **AUTHORITIES**

The authority for this decision is contained in the Mineral Leasing Act of 1920, as amended; the Mineral Leasing Act for Acquired Lands of 1947, as amended; the Federal Land Policy and Management Act (FLPMA) of 1976; and the Energy Policy Act of 2005.

## **TERMS/CONDITIONS/STIPULATIONS**

Standard terms and conditions, as well as the lease notices and stipulations, identified within the Sale Notice, would apply and be attached to the lease parcels.

Additionally, any purchaser of a Federal oil and gas lease is required to comply with all applicable Federal, State, and local laws and regulations including obtaining all necessary permits required prior to the commencement of project activities, including but not limited to the following:

- National Environmental Policy Act (1969) and the associated Council on Environmental Quality regulations at 43 CFR Parts 1500-1508
- FLPMA (1976) as amended and the associated regulations at 43 CFR Part 1600
- Mineral Leasing Act (1920) as amended and the associated regulations at 43 CFR Part 3100

- Clean Water Act (1977)
- Clean Air Act (1970) as amended
- National Historic Preservation Act (NHPA) (1966) as amended and the associated regulations at 36 CFR Part 800
- Endangered Species Act (ESA) (1973) as amended
- Migratory Bird Treaty Act (1918)
- Resource Conservation and Recovery Act (RCRA) (1976) as amended
- Executive Order 11988- Floodplain Management
- Executive Order 119900 – Protection of Wetlands
- Executive Order 12898 – Environmental Justice in Minority Populations and Low-Income Populations
- Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews (BLM WO IM 2010-117)
- State and Local Laws and regulations

### **PLAN CONFORMANCE AND CONSISTENCY**

The Proposed Action is in conformance with the 2006 WNF Land and Resource Management Plan and associated Final Environmental Impact Statement (LRMP/FEIS) and Record of Decision (ROD), as amended. The BLM was a cooperating agency in the preparation of these documents. The EA is also consistent with a related review effort resulting in a 2012 Supplemental Information Report (SIR) on “Horizontal Drilling Using High Volume Hydraulic Fracturing” that was prepared by the U.S. Forest Service in coordination with the BLM. As part of these planning efforts, the U.S. Forest Service conducted extensive public outreach in the development of the 2006 LRMP/FEIS.

### **PUBLIC INVOLVEMENT**

#### ***Scoping and Public Comment on the Draft EA***

The BLM conducted external scoping for the Draft EA through a series of public meetings requesting public comments, and through close coordination and data sharing with the U.S. Forest Service. Public notices appeared in local newspapers including the *Marietta Times*, *Athens Messenger*, and the *Ironton Tribune* for two consecutive weeks starting on November 1, 2015. The BLM also issued a press release to various news outlets on November 2, 2015, notifying the public of dates, times, and locations of the public meetings. Public meetings were held on November 17, 2015 in Marietta, Ohio; November 18, 2015 in Athens, Ohio; and November 19, 2015 in Ironton, Ohio.

During the early stages of the project in November 2015, the BLM created a project website for the EA accessible through the BLM national NEPA register at:

[https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa\\_register.do](https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do).

The website provides links to documents, opportunities for public involvement, including methods for comment submission, maps, EOI information, and links to additional project information.

The BLM received approximately 3,400 comments during the scoping period and used the input received to develop the Draft EA. Many of the comments received during scoping reflected

common themes revolving around concern about oil and gas activities on forest and wildlife habitat, toxic chemicals, degradation of water quality, air pollution, public health and safety and degradation of recreational opportunities and the visual environment within the WNF. Some comments also expressed interest in delaying leasing until the oil and gas market improves. Individuals in favor of leasing felt that restricting oil and gas development prohibits economic growth for the state of Ohio, including for those individuals that wish to develop private minerals.

In conformance with BLM policy, the Draft EA and unsigned FONSI were posted for a 30-day public comment period from April 28-May 31, 2016. The BLM received approximately 14,000 comments by email and 480 comments by U.S. postal service or FedEx. Of the comments received, BLM identified approximately 300 substantive comments and addressed them in the Final EA. Substantive comments focused on concerns about air quality and climate change, hydraulic fracturing, water quality, cumulative impacts, the NEPA process, public health, traffic, noise, environmental justice, seismic risk, private development, recreation, threatened and endangered species, private home/land values, and waste disposal. Changes made to the Draft EA are summarized in a comment matrix in Chapter 9 of the Final EA (Appendix A).

#### ***Protests (March 2017 Lease Sale)***

The notice of competitive lease sale was posted on January 13, 2017 on the BLM [National NEPA Register \(ePlanning\)](https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage&currentPageId=104130) at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage&currentPageId=104130>, as well as through a press release published on the same date. This lease sale notice initiated a 30-day protest period of the parcels proposed for the March 2017 lease sale. BLM received 78 protest submissions (5 were duplicates), from which 52 were considered valid protests. Twenty one letters did not meet the procedural requirements to be considered a valid protest letter because they did not comply with the minimum required information described on the Notice of Competitive Lease Sale. Of the 52 valid protest letters, one raised unique substantive protest issues and the other 51 letters expressed general concerns. After careful consideration, the BLM issued two decision letters denying the protests. One decision letter addressed the general issues identified in the 51 letters, whereas an individual decision letter was developed for the one letter raising unique concerns. The protest letters and decision letters may be found at the website on the BLM National NEPA Register noted above. As a result, none of the parcels offered for oil and gas leasing at the lease sale are subject to an unresolved protest.

#### **CONSULTATIONS**

The BLM conducted required consultation with the Ohio State Historic Preservation Office (SHPO) and tribes. The BLM initiated consultation with the Ohio SHPO under Section 106 of the NHPA, by letter dated November 16, 2015. To date, the SHPO has not responded to the letter, indicating that they have found no adverse effects within the scope of the Proposed Action. Further consultation will occur at the APD phase, prior to ground disturbing activities, if the leasee submits an APD. On November 6, 2015, the BLM sent certified letters to seven federally recognized tribes who have a known connection to the area notifying them of the Proposed Action and asking them to identify any concerns with respect to the Proposed Action. To date, the BLM has received no responses to these letters. Further tribal consultation will occur at the APD stage, if the leasee submits an APD.

- Relevant resource issues and finding of no significant impact - As described in the EA, there would be no direct impacts associated with leasing. There is the potential for minor adverse indirect impacts to resources as a result of potential future oil and gas development; however, none of the impacts were identified as significant and therefore, a finding of no significant impact (FONSI) was prepared. Therefore, an environmental impact statement (EIS) is not required. Additional site-specific NEPA documentation would be completed at the Application for Permit to Drill (APD) stage, should future development occur. All required consultations under the ESA and NHPA, have been completed.
- Application of measures to minimize environmental impacts - Standard terms and conditions, as well as stipulations identified in the EA would apply, as required by 43 CFR 3131.3.

### **APPEALS PROCEDURES**

In accordance with 43 CFR 4.411 and 4.413, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision to the Interior Board of Land Appeals (IBLA). The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.411 and 4.412, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.21(b) and 4.413(a), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. At this time, the BLM will not accept protests or appeals sent by electronic mail. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal, and any petition for stay, on any person named in the decision and listed at the end of the decision, and on to the appropriate Office of the Solicitor.

### **STANDARDS FOR OBTAINING A STAY**

Pursuant to 43 CFR 4.21(b) (1), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

**Authorized Officer:**



Karen E. Mouritsen  
State Director, BLM Eastern States

3-23-17  
Date

The BLM prepared a Biological Assessment and initiated consultation with the US Fish and Wildlife Service in a letter dated November 4, 2015. The conclusion of the Biological Assessment was that proposed leasing, with the protective measures incorporated into the lease terms, was not likely to adversely affect the Northern long-eared bat, Indiana bat, Fanshell mussel, Snuffbox mussel, Sheepnose mussel, Pink mucket pearly mussel, American Burying beetle, Northern monkshood, Running buffalo clover, Small whorled pogonia, and the Virginia spirea. The protective measures outlined in the BLM's Biological Assessment incorporated stipulations and notices found in the US Forest Service 2006 LRMP/EIS and associated Biological Opinion, plus additional measures for protection of Northern long-eared bat hibernacula and requirements to keep wildlife out of tanks. On July 29, 2016, the BLM supplemented the Biological Assessment by submitting the Northern Long-eared Bat 4(d) Rule Streamlined Consultation Form.

The conclusion that oil and gas leasing is not likely to adversely affect the aforementioned federally listed species is based on the fact that leasing does not authorize any surface disturbing activities. Consistent with the guidance outlined in the US Forest Service 2006 LRMP/EIS and associated Biological Opinion, the BLM and US Forest Service would prepare and submit a Tier II Biological Assessment if, subsequent to leasing, an application for permit to drill is filed with the BLM. The protective measures attached to a lease provide the prospective lessee notice that protection of those species must be taken into consideration if an application for permit to drill is submitted to the BLM. Additional consultation with the US Fish and Wildlife Service would be required at that time.

### **RATIONALE FOR DECISION**

The decision to authorize the recommended alternative is based on the following:

- Consistency with the resource management plan and the land use plan - The decision is consistent with, and in conformance with, the 2006 WNF LRMP/FEIS and ROD (January 2006).
- National Policy & Purpose and Need – The Proposed Action meets the BLM's purpose and need for action, which is to support the development of oil and natural gas resources that are essential to meeting the nation's future needs for energy while minimizing adverse effects to natural and cultural resources. The BLM minimizes adverse effects to resources by identifying appropriate lease stipulations and notices, best management practices, and mitigations. It is the policy of the BLM as mandated by various laws, including the Mineral Leasing Act of 1920, as amended (30 United States Code [USC] 181 et seq.), the Federal Land Policy and Management Act of 1976 (FLPMA), and the Energy Policy Act of 2005 to make mineral resources available for development to meet national, regional, and local needs. The oil and gas leasing program managed by the BLM encourages the sustainable development of domestic oil and gas reserves which reduces the dependence of the United States on foreign sources of energy as part of its multiple-use and sustainable yield mandate.
- Agency statutory requirements - The decision is consistent with all required federal, state, tribal, and county regulations and policies required for the implementation of the Proposed Action.